

FIRST REGULAR SESSION

SENATE BILL NO. 44

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PEARCE.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0438S.011

AN ACT

To repeal sections 221.111, 221.353, 575.210, 575.220, and 575.240, RSMo, and to enact in lieu thereof seven new sections relating to private jails, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 221.111, 221.353, 575.210, 575.220, and 575.240, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 221.095, 221.097, 221.111, 221.353, 575.210, 575.220, and 575.240, to read as follows:

221.095. 1. For the purposes of this section, "private jail" shall mean a facility not owned or operated by the state, a county or a municipality that confines or detains prisoners who are awaiting trial, awaiting sentencing, or serving a sentence in a jail.

2. When any employee of a private jail or person assigned to work in a private jail has reasonable cause to believe that a prisoner in a private jail has been abused or that a state or federal law has been violated by any person in a private jail or on the premises of the private jail, he or she shall immediately, upon learning of the abuse or law violation, report the same in writing to the administrator of the private jail.

3. The written report shall contain the name and address of the private jail, the name of the prisoner or person who may have violated state or federal law, if applicable, information regarding the nature of the abuse or law violation, the name of the complainant, and any other information which might be relevant in an investigation.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 4. The administrator of the private jail shall immediately refer
18 all reports of abuse of a prisoner or reports of a violation of state or
19 federal law to the sheriff in the county in which the private jail is
20 located. The administrator and employees of the private jail shall
21 cooperate with law enforcement in the investigation of the facts alleged
22 in the report of abuse or violation of state or federal law. In the event
23 that a prisoner has escaped, the administrator and employees of the
24 private jail shall notify the sheriff in the county in which the private
25 jail is located immediately upon learning of the escape. The
26 administrator and employees of the private jail shall cooperate in
27 apprehending the escaped prisoner by communicating all information
28 known concerning the escape.

29 5. Any person required by subsection 2 of this section to report
30 or cause a report to be made, who fails to do so immediately after the
31 act of abuse or violation of state or federal law, is guilty of a class A
32 misdemeanor. Any administrator required by subsection 4 of this
33 section to refer reports to the county sheriff, who fails to refer such
34 reports immediately, is guilty of a class A misdemeanor. Failure to
35 notify the sheriff immediately upon learning of an escape shall be a
36 class D felony. Failure to cooperate in the apprehension of the escaped
37 prisoner shall be a class D felony.

38 6. In addition to those persons required to report under
39 subsections 2 or 4 of this section, any other person having reasonable
40 cause to believe that a prisoner has been abused or that state or federal
41 law has been violated, may report such information to the
42 administrator of the private jail, to the sheriff in the county where the
43 private jail is located, or to the Missouri State Highway Patrol.

44 7. Reports made by an employee of the private jail under this
45 section shall be confidential, shall not be deemed a public record, and
46 shall not be subject to the provisions of section 109.180, RSMo, or
47 chapter 610, RSMo.

48 8. Any person who makes a report under this section or who
49 testifies in any administrative or judicial proceeding arising from the
50 report shall be immune from any civil or criminal liability for making
51 such a report or for testifying, except for liability for perjury, unless
52 such person acted in bad faith or with malicious purpose.

53 9. No person who directs or exercises any authority in a private

54 jail shall harass, dismiss, or retaliate against a prisoner or employee
55 because he or she or any member of his or her family has made a report
56 of any violation or suspected violation of laws, ordinances, or
57 regulations applying to the private jail which he or she has reasonable
58 cause to believe has been committed or has occurred.

221.097. 1. Persons confined in private jails shall be separated
2 and confined according to gender. Persons confined under civil
3 process or for civil causes, except those persons confined awaiting a
4 determination on whether probation or parole will be revoked or
5 continued, shall be kept separate from persons confined awaiting trial
6 for criminal charges, awaiting sentencing for criminal charges,
7 awaiting determination on whether probation or parole will be revoked
8 or continued, or serving a sentence on a criminal investigation.

9 2. The administrator shall arrange for necessary health care
10 services for persons confined in the private jail.

11 3. The administrator shall ensure that persons confined in the
12 private jail have adequate clothing, food, and bedding. Deprivation of
13 adequate clothing, food, or bedding shall not be used as a disciplinary
14 action against any confined person.

15 4. No person confined in a private jail shall be used in any
16 manner for the profit, betterment, or personal gain of any employee of
17 the county or of any employee of the private jail.

221.111. 1. No person shall knowingly deliver, attempt to deliver, have
2 in such person's possession, deposit or conceal in or about the premises of any
3 county **or private** jail or other county correctional facility:

4 (1) Any controlled substance as that term is defined by law, except upon
5 the written prescription of a licensed physician, dentist, or veterinarian;

6 (2) Any other alkaloid of any kind or any spiritous or malt liquor;

7 (3) Any article or item of personal property which a prisoner is prohibited
8 by law or rule made pursuant to section 221.060 from receiving or possessing,
9 except as herein provided;

10 (4) Any gun, knife, weapon, or other article or item of personal property
11 that may be used in such manner as to endanger the safety or security of the
12 institution or as to endanger the life or limb of any prisoner or employee thereof.

13 2. The violation of subdivision (1) of subsection 1 of this section shall be
14 a class C felony; the violation of subdivision (2) of this section shall be a class D

15 felony; the violation of subdivision (3) of this section shall be a class A
16 misdemeanor; and the violation of subdivision (4) of this section shall be a class
17 B felony.

18 3. The chief operating officer of a county jail or other county correctional
19 facility **or the administrator of a private jail** may deny visitation privileges
20 to or refer to the county prosecuting attorney for prosecution any person who
21 knowingly delivers, attempts to deliver, has in such person's possession, deposits
22 or conceals in or about the premises of such jail or facility any personal item
23 which is prohibited by rule or regulation of such jail or facility. Such rules or
24 regulations, including a list of personal items allowed in the jail or facility, shall
25 be prominently posted for viewing both inside and outside such jail or facility in
26 an area accessible to any visitor, and shall be made available to any person
27 requesting such rule or regulation. Violation of this subsection shall be an
28 infraction if not covered by other statutes.

 221.353. 1. A person commits the crime of damage to jail property if such
2 person knowingly damages any city [or], county, **or private** jail building or other
3 jail property.

4 2. A person commits the crime of damage to jail property if such person
5 knowingly starts a fire in any city [or], county, **or private** jail building or other
6 jail property.

7 3. Damage to jail property is a class D felony.

 575.210. 1. A person commits the crime of escape or attempted escape
2 from confinement if, while being held in confinement after arrest for any crime,
3 while serving a sentence after conviction for any crime, or while at an
4 institutional treatment center operated by the department of corrections as a
5 condition of probation or parole, he escapes or attempts to escape from
6 confinement.

7 2. Escape or attempted escape from confinement in the department of
8 corrections is a class B felony.

9 3. Escape or attempted escape from confinement in a county or **private**
10 **jail or city or county** correctional facility is a class D felony except that it is:

11 (1) A class A felony if it is effected or attempted by means of a deadly
12 weapon or dangerous instrument or by holding any person as hostage;

13 (2) A class C felony if the escape or attempted escape is facilitated by
14 striking or beating any person.

 575.220. 1. A person commits the crime of failure to return to

2 confinement if, while serving a sentence for any crime under a work-release
3 program, or while under sentence of any crime to serve a term of confinement
4 which is not continuous, or while serving any other type of sentence for any crime
5 wherein he is temporarily permitted to go at large without guard, he purposely
6 fails to return to confinement when he is required to do so.

7 2. This section does not apply to persons who are free on bond, bail or
8 recognizance, personal or otherwise, nor to persons who are on probation or
9 parole, temporary or otherwise.

10 3. Failure to return to confinement is a class C misdemeanor unless:

11 (1) The sentence being served is to the Missouri department of corrections
12 and human resources, in which case failure to return to confinement is a class D
13 felony; or

14 (2) The sentence being served is one of confinement in a county **or**
15 **private** jail on conviction of a felony, in which case failure to return to
16 confinement is a class A misdemeanor.

575.240. 1. A public servant, **contract employee of a county or**
2 **private jail, or employee of a private jail**, who is authorized and required
3 by law to have charge of any person charged with or convicted of any crime
4 commits the crime of permitting escape if he knowingly:

5 (1) Suffers, allows or permits any deadly weapon or dangerous
6 instrument, or anything adapted or designed for use in making an escape, to be
7 introduced into or allowed to remain in any place of confinement, in violation of
8 law, regulations or rules governing the operation of the place of confinement; or

9 (2) Suffers, allows or permits a person in custody or confinement to
10 escape.

11 2. Permitting escape by suffering, allowing or permitting any deadly
12 weapon or dangerous instrument to be introduced into a place of confinement is
13 a class B felony; otherwise, permitting escape is a class D felony.

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